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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,017	12/05/2003	Nick Huffman	HFMN.001A	8816
20995	7590	01/26/2006	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			PENDLETON, DIONNE	
			ART UNIT	PAPER NUMBER
			2646	

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/729,017	HUFFMAN, NICK
	Examiner	Art Unit
	Dionne N. Harvey	2646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 9-16 and 20-26 is/are pending in the application.
- 4a) Of the above claim(s) 15,16,20,21 and 26 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 9-14 and 22-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of the invention of Group II, figures 3A-3C in a telephone conversation on June 24,2005, has been acknowledged.

Claims 15, 16 and 26 have not been further treated on their merits, since the "bottle" limitation, claimed therein, is not illustrated in the figures 3A-3C.

Additionally, with respect to claim 20, a speaker system comprising a "speaker driver mounted less than 7 cm above the closed end", is not illustrated in figures 3A-3C. Accordingly, claims 20-21 have not been further treated on their merits.

It is requested that claims 15,16,20,21 and 26, be withdrawn, as they are drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 9-14, 22 and 24-25** are rejected under 35 U.S.C. 102(e) as being anticipated by **Hoefler (US 6,771,787)**.

Regarding claim 9, in **figure 1**, Hoefler teaches a speaker system, comprising: a substantially cylindrical primary enclosure **14** (see **column 3, line 1**) having a primary

enclosure volume and having an open end 16 (column 3, line 11) and a closed end 12 (closed by the transducer 10 mounted therein);

a speaker 10 for reproducing a full range of high frequency audio signals,

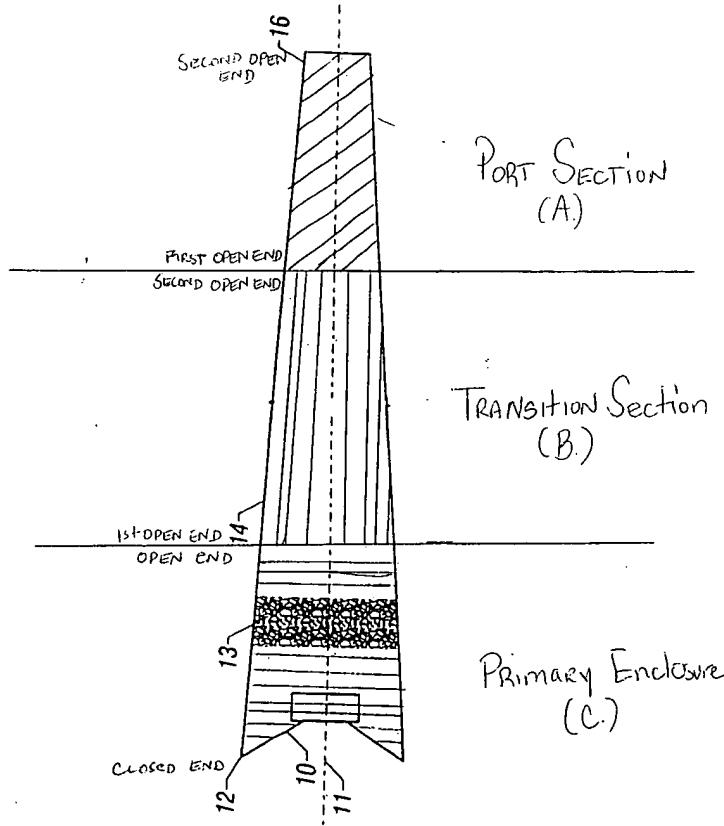
mounted to a surface of the primary enclosure;

a front face of the speaker driver 10 positioned external to the primary enclosure

and a rear face of the speaker driver positioned internal to the primary enclosure;

Based upon the Applicant's specification, page 14, paragraph [0075], the Applicant teaches that the primary enclosure may "gently transition to the port section"; as is clearly illustrated in figure 3A. The Examiner has horizontally dissected the tubular waveguide of Hoefler into 3 sections:

- 1.) a "top" port section, indicated by diagonal lines;
- 2.) a "middle" transition section, indicated by vertical lines; and
- 3.) a "lower" primary enclosure, indicated by horizontal lines;



Accordingly, the “top” section **A**, as interpreted by the Examiner, reads on “a substantially cylindrical port section having first and second open ends, the axis of the port section coincident with the axis of the primary enclosure”;

And the “middle” section **B**, as interpreted by the Examiner, reads on “a transition section having a first open end coupled to the open end of the primary enclosure and a second open end coupled to the first end of the port section” and wherein the transition section tapers from a dimension of the primary enclosure to the port section, as claimed.

Regarding claim 10, Hoefler teaches that the speaker driver **10** is mounted to the closed end of the primary enclosure such that the front face is perpendicular to the axis of the primary enclosure and the front face forms at least a portion of the closed end of the primary enclosure.

Regarding claim 11, Hoefler teaches that the speaker driver is mounted to “a face” of the primary enclosure.

Regarding claim 12, in **figure 1**, Hoefler teaches that the axis of the speaker driver **10** is substantially perpendicular to the axis of the port section.

Regarding claim 13, Hoefler teaches that the dimensions of the first open end of the transition section substantially match dimensions of the open end of the primary enclosure.

Regarding claim 14, Hoefler teaches that the dimensions of the second open end of the transition section substantially match dimensions of the port section.

Regarding claim 22, Hoefler teaches that the port section is external to the primary enclosure.

Regarding claim 24, Hoefler teaches that the first open end of the transition section has *about the same* diameter as the open end of the primary enclosure.

Regarding claim 25, Hoefler teaches that the first open end of the transition section has *about the same* diameter as an internal dimension of the primary enclosure, as broadly claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Hoefler (US 6,771,787)**.

Regarding claim 23, In **column 3, lines 26-32**, Hoefler teaches that the transducer may be a cone type 65 mm driver. However, Hoefler does not restrict the invention to only comprising a diaphragm of this sort. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to alter the device of Hoefler, so as to comprise a driver having a diaphragm dimension less than 35cm, where a proportionately smaller loudspeaker construction is desired.

Response to Arguments

4. Applicant's arguments with respect to claims 9-16, 20 and 21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne N Harvey whose telephone number is 703-305-1111. The examiner can normally be reached on 9-6:30 M-F and alternating Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 703-305-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


D. Harvey


SUHAN NI
PRIMARY EXAMINER